

# LEGAL FRAMEWORK FOR LANGUAGE USE AND LINGUISTIC RIGHTS IN BOTSWANA

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## ABSTRACT

*Except for allusions to some requirements or competencies for holding certain government offices or positions, no law legislates a planned language usage in Botswana. The colonial language practice dispensation of English, the official language for government records, and Setswana, the territorial language for oral communication and early literacy, were adopted at independence in 1966. In a country of 30 different languages, the immediate questions are, what happens with other national languages, and what role and right do they have in Botswana? The difficulty that the Botswana language situation presents is that the equality guaranteed by the Constitution does not translate into equality in language usage in education, public media, or other language use domains. The paper proposes a critical assessment of the legislative provision on language and what the current language use practice entails for other languages and the country as a democracy. Within a socio-linguistic framework, the paper will interrogate language as a right as advocated by UNESCO and Human Rights organisations. The arguments presented are that, if Botswana wants to adopt a holistic approach to its democratic ideals, she should also ensure that all aspects of human rights are constitutionally given, and that policies and laws are enacted to achieve equality and equity for all. With the new debates on Sustainable Development Goals and Vision 2036, Botswana is in an opportune situation to implement language and culture rights that take all languages and cultures into account, and to ensure that they are promoted and capitated to be tools for the new call for the knowledge economy.*

## 1. INTRODUCTION

The Botswana administrative and official language practices, as well as various official pronouncements on language policy, effectively declare Botswana a bilingual country. Setswana takes the status and the role of a national language, and English takes the prestigious position of the official language. Associated with these constitutional pronouncements and privileges are the beliefs and practices that Botswana is a nation made up of only Tswana ethnic

groups.<sup>1</sup> With this constitutional hegemony, Botswana is presented as a shining example of an equitable nation with guaranteed democratic and human rights.<sup>2</sup>

Even though Botswana guarantees personal rights and freedoms for every citizen, minority languages and minority ethnic groups still face several hurdles concerning common rights and freedoms in the domains of ethnic identity, culture, and language.<sup>3</sup> The limitations of the Constitution in respect of the provision of language and cultural policies means that, for all these groups, their ethnic and linguistic existence is not recognized. This is because the Constitution and the Laws of the Land individuate the human person, and consequently do not see an individual in an ethno-cultural perspective.<sup>4</sup> No Government sector takes ethnic minorities and their linguistic and cultural peculiarity into account.<sup>5</sup> It is worth noting at this point that most of what defines ethnicities and territories are effectively an architect of pre-independence administration.<sup>6</sup>

The Botswana Government draws particular attention to the multicultural and multilingual diversity of the country and advocates for the protection and the promotion of minority languages.<sup>7</sup> To achieve this objective, the National Cultural policy aims at facilitating the development of an inventory of all the indigenous languages of Botswana and analysing their level of development, uses and limitations, as well as developing an inventory of policies that directly and indirectly impact on the development and use of Botswana's indigenous languages. The purpose of these inventories is to devise strategies aimed at developing and encouraging the use of various indigenous languages at local level to facilitate national cohesion. Nevertheless, this cultural policy is neither a legal obligation for the government nor

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<sup>1</sup> L. Nyati-Ramahobo, "Language planning and policy in Africa" in R. B. Kaplan and R. B. Baldauf Jr. (eds.), *Language planning and policy in Africa*, Cleveland, Multilingual Matters Ltd. (2004) pp. 21-78. See also L. Nyati-Ramahobo, "The Language Situation in Botswana" (2000) 1 (2) *Current Issues in Language Planning* pp. 243-300.

<sup>2</sup> T. Janson and J. Tsonope, *Birth of a National Language – The History of Botswana*, (Gaborone, Heinemann 1991) pp. 165.

<sup>3</sup> Constitution of Botswana 1966, Section 3.

<sup>4</sup> D. G. Boko, "Integrating Basarwa under Botswana's Remote Area Development Programme: Empowerment or marginalization?" in I. N. Mazonde (ed.), *Minorities in the millennium: Perspectives from Botswana*, Gaborone, Lightbooks (2002) pp. 97-110.

<sup>5</sup> H. M. Batibo, "An ideal language policy for an inclusive and sustainable development in Africa" in P. Sköld, M. Sandström, and M. Bolaane (eds.), *Under the same sun: Parallel issues and challenges for the San and Sami peoples*, (Umea, Umea University Press 2015) pp. 71-78. See also A. M. Chebanne, "Negative multicultural consequences of Botswana restrictive language policy in education: Mourning the loss of Khoisan languages" in A. Jotia & D. Jankie (eds.), *Multicultural education discourses: Breaking barriers of exclusion in selected African contexts*, (Windhoek, Zebra Publishing, 2015) pp. 5-24.

<sup>6</sup> B. Bennett, "Some Historical Background on Minorities in Botswana" in I. N. Mazonde (ed.), *Minorities in the millennium: Perspectives from Botswana*, (Gaborone, Lightbooks 2002) pp. 5-16.

<sup>7</sup> National Policy on Culture 2001.

a linguistic right to the indigenous groups. In Botswana, like in most countries across the globe, people have the right to express themselves in any language of their choice within the private sphere. However, this right ceases to exist the moment they leave the private sphere and enters the public sphere. This is so because, the public sphere is the territory of the state and as such, only the state has the right to designate, *de facto* or *de jure*, the languages that people must use when communicating with public authorities. These State languages becomes a condition for the full access to several services, resources, and privileges, such as education or public employment.<sup>8</sup>

The Botswana language situation entails that, to encourage the use of indigenous languages at local level, as is the aim of this policy, the government must put in place a legal framework that, on the one hand, makes the use of indigenous languages by the government itself a legal responsibility and, on the other hand, guarantees the speakers of indigenous language legal rights to assistance in the language of their own choice when dealing with the government. Therefore, in its current form, the Cultural Policy is a soft law instrument and as such is non-binding upon the state. Its recommendations are not linguistic rights. Without any legal obligations, the government has no obligation to perform anything else beyond the status quo. Indeed, legal obligations are legal requirements with which law subjects are bound to conform.<sup>9</sup> Put differently, a legal right is an interest that warrants holding others under an obligation to protect it.

## 2. OBJECTIVE OF THE PAPER

This discussion aims to contextualise the current language use and language rights situation of Botswana within a legal perspective as it obtains from the current Botswana Constitution. Since the constitution guarantees all human rights and cultural representation within the social framework, the exclusion of the most important resource, language, is a constitutional incongruity.<sup>10</sup> The paper will argue that language is a right and needs a specific mention in a constitution of democracy through appropriate language use policy planning.<sup>11</sup> Delimiting the discussion to language rights is a conscious decision based on the prominence of the problem

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<sup>8</sup> F. de Varennes, *Language, Minorities and Human Rights*. The Hague, The Netherlands: Kluwer Law International (1996), pp. 532.

<sup>9</sup> L. Green, "Legal Obligation and Authority", *The Stanford Encyclopedia of Philosophy* (Winter 2012 Edition), Edward N. Zalta (ed.). (2012), Retrieved on 10 October 2020, from <https://plato.stanford.edu/archives/win2012/entries/legal-obligation/>.

<sup>10</sup> Janson and Tsonope (n 2)

<sup>11</sup> L. Nyati-Ramahobo, "Ethnic Identity and Nationhood in Botswana" in I. N. Mazonde (ed.), *Minorities in the millennium: Perspectives from Botswana*, (Gaborone, Lightbooks 2002)), pp. 11-28.

for all indigenous minorities and marginalized ethno-linguistic groups in Botswana.<sup>12</sup> The paper will demonstrate how some important rights such as language rights can be overlooked in instances where authorities promote a general policy that does not individuate rights. Linguistic rights are of particular interest because they fall within the next generation of human rights that most African constitutions did not consider as rights at independence. The paper will endeavour to argue this peculiar problem from the theoretical framework of language as a problem or a resource and will submit that democracy is not served by excluding other languages as these languages are tools that express dynamic cultures that actualise people's lives.<sup>13</sup> The antithesis of the current situation, as the paper will argue, is marginalization, assimilation, and the maintenance of linguistic hegemony that defeats the ideals of democracy and human rights as reflected through the freedom to language and culture - such elemental issues that are core to the enjoyment of personal and collective rights of any citizen of a country.

### 3. LANGUAGE RIGHTS OR LINGUISTIC RIGHTS: DEBATE AND DEFINITION

This paper takes cognisance of the African Union's plea for African countries to formulate holistic, optimal and inclusive language policies<sup>14</sup> and the United Nations Educational, Scientific and Cultural Organization (UNESCO) recommendation advocating for national integrity, sovereignty, equal access, maximum participation, and inclusivity in education.<sup>15</sup> In Botswana, several similar recommendations have also been made. These include Recommendation 1 of the Revised National Policy on Education which states that "equity in education should continue to be an explicit goal".<sup>16</sup> Equally, the Education and Training Sector Strategy Plan (ETSSP) echoes the above statement by emphasizing for "equity of education service and special education needs" in the third of the four main Pillars of ETSSP.<sup>17</sup> Furthermore, the decidedly esteemed Vision 2036 states categorically that all Botswana citizens should have equal access to national resources and services as well as equal participation in national affairs.<sup>18</sup> All these clamours underscore the need to enrich Botswana's democracy predicated on the value of equity and equal access to education and training.

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<sup>12</sup> Batibo (n 5) ; Chebanne (n 5). See also H. M. Batibo, "Patterns of identity loss in trans-cultural contact situations between Bantu and Khoesan groups in western Botswana", (2015) 11 (1) *Studies in Literature and Language* , pp. 1-6.

<sup>13</sup> L. Nyati-Ramahobo, "Language in education and the quality of life in Botswana" in D. Nteta & J. Herman (eds.), *Poverty and plenty: The Botswana experience*, (Gaborone, Macmillan, 1997) pp. 251-269.

<sup>14</sup> African Academy of Languages (2008).

<sup>15</sup> United Nations Educational, Scientific and Cultural Organization, *The use of Vernacular Languages in Education* (1953).

<sup>16</sup> Government White Paper no. 2 of 1994: The Revised National Policy on Education (1994), p. 13

<sup>17</sup> Education and Training Sector Strategy Plan (2015), p. 3

<sup>18</sup> Vision 2036: Achieving Prosperity for All: Presidential Task Team (2016).

Before looking at what exists at national level in terms of linguistic rights, it seems appropriate to define this notion. In the literature, linguistic rights are often treated synonymously with language rights and linguistic human rights. The Office of the United Nations High Commissioner for Human Rights (OHCHR) defines linguistic rights “as a series of obligations on state authorities to either use certain languages in a number of contexts or not interfere with the linguistic choices and expressions of private parties”.<sup>19</sup> The OHCHR further adds that language rights are usually considered broader than linguistic rights. However, the document neither defines the notion of language rights nor does it explain what makes it more encompassing than linguistic rights. Without explicitly defining the notion of language rights, Arzoz states that language rights are concerned with the rules that public institutions adopt with respect to language use in a variety of different domains.<sup>20</sup> The main preoccupation addressed by the notion of language rights is the legal situation of speakers of non-dominant languages. A closer look at the two definitions highlights the same end-result. Linguistic rights or language rights concerns languages identified by the state that are to be used when dealing with public authorities. Therefore, linguistic rights aim at enabling speakers of the minority language to use their own language rather than the majority language when dealing with the government.

The definition provided by the Minority Rights Group (MRG) is differently oriented.<sup>21</sup> According to the MRG, linguistic rights are rights that protect the individual and collective when choosing the language or languages for communication both within the private and the public sphere. MRG further states that linguistic rights involve a combination of legal requirements based on international human rights treaties and standards on how to address language or minority issues, as well as linguistic diversity within a state. These language rights can be either tolerance-oriented or promotion-oriented.<sup>22</sup> On the one hand, tolerance-oriented language rights ensure the right for individuals to preserve their first language in the non-governmental sphere of national life without any interference from the state.<sup>23</sup> Tolerance-oriented language rights are principally oriented towards people from linguistic minorities. On the other hand, promotion-oriented rights regulate the extent to which language rights are

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<sup>19</sup> United Nations Office of the High Commissioner for Human Rights 2015

<sup>20</sup> X. Arzoz, “Accommodating linguistic difference: Five normative models of language rights”, (2010) 6 (1) *European Constitutional Law Review*, pp. 102-122.

<sup>21</sup> Minority Rights Group International, *Linguistic Rights* 2015

<sup>22</sup> H. Kloss, *The American bilingual tradition*. (2<sup>nd</sup> ed.) Washington, DC, and McHenry, IL: Center for Applied Linguistics and Delta Systems. (1998).

<sup>23</sup> *ibid.* p. 2

recognized within the public domain and involve the measures taken by the state to promote the use of minority languages in public institutions – legislative, administrative, and educational, including the public schools.<sup>24</sup>

Based on the above definitions, evidently, Botswana language use practice has palpably not responded to issues of language as a right. As indicated earlier, multilingualism appears to present a tacit complication or difficulty under the pretext or the dread of the risk of ethnic conflicts and social predicament.<sup>25</sup> The vision of social development agenda in Botswana gives the impression that policies and laws are gyrating around the socio-political model which refuses language and cultural pluralism in favour of “national construction”, “national unity” and “national education”<sup>26</sup> and has been criticised by scholars for failing to respond to critical issues of equitable development.<sup>27</sup> Researchers have in their arguments raised the question on the kind of unity and equality when there is no equity in social policies and some laws. Instead of the constitution providing a basis to create appropriate laws, there is utter silence. Indeed, Chebanne admits that the constitution did not even consider language and culture as human rights.<sup>28</sup> Appealing to ethnic and indigenous content in constitutional development is absent or not provided for, perhaps under the guise of modernity. The integration of what constructs or constitutes a people’s identity and other related African social realities are glaringly absent. This approach to development that takes wholesale the western model and allows it to permeate all sectors of development have been severely criticised by some social scientists and educationists.<sup>29</sup> In the context of the discussion of this paper, the argument that is underscored is that social elements that define ethnicities must be explicit in policies and laws to respond to issues of rights and of equity, qualified elsewhere as quality of life for all citizens of Botswana,<sup>30</sup> when equitable legal provisions elements feature in the social order of the country. This therefore calls for a legal and regulatory framework for language use and language rights.

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<sup>24</sup> *ibid.*

<sup>25</sup> B. Smeija, *Language Pluralism in Botswana - Hope or Hurdle? A sociolinguistic survey on language use and language attitudes in Botswana with special reference to the status and use of English*, Frankfurt/Bern, Peter Lang (2003).

<sup>26</sup> Government White Paper (n 16)

<sup>27</sup> L. Nyati-Ramahobo, *The National Language. A Resource or a Problem: Implementation of the Language Policy in Botswana*, Gaborone, Pula Press (1999). See also L. Nyati-Ramahobo (n 1); Batibo (n 5); Chebanne (n 5).

<sup>28</sup> Chebanne (n 5); A. M. Chebanne, “The Internal Colonisation of the San Peoples of Botswana”, (2020) 32 *Marang: Journal of Language and Literature*, pp. 16-38.

<sup>29</sup> K. K. Prah, *Between Distinction and Extinction: The Harmonisation and Standardisation of African Languages*, (Cape Town, CASAS 2000).

<sup>30</sup> Nyati-Ramahobo (n 13)

#### 4. LEGAL FRAMEWORKS FOR LINGUISTIC RIGHTS

A legal and regulatory framework for language use and language rights may be viewed as a set of constitutional, legislative, regulatory, jurisprudential rules that together establish the rights of people to use languages of their choice when soliciting services from the government.<sup>31</sup> It is aimed to assist in the efforts to achieve the necessary balance between a state's official language or languages, and its obligations to use or respect the language preferences of linguistic groups who speak languages other than the state's official languages.<sup>32</sup> As such, the main preoccupation addressed by the notion of language rights is the legal situation of speakers of non-dominant languages, to enable them to use their own language rather than the majority language when dealing with the authorities. Linguistic rights are, as such, frequently equated to the rights for linguistic minorities.<sup>33</sup> It is therefore not surprising that the notion of human rights has a special appeal to many minority language activists and scholars, who have been advocating for a human rights approach to language rights, a notion otherwise known as the "linguistic human rights". In such cases, reference is always made to international law instruments that protect linguistic minorities against any form of discrimination, such as the Universal Declaration of Human Rights, International Convention of the Elimination of all Forms of Racial Discrimination, the International Covenant on Civil and Political Rights. This is the case for linguistic minorities in Botswana.

These human rights treaties, however, have not helped change the situation primarily because they lack provisions on the use of language by state authorities or the use of language for the purposes of the government.<sup>34</sup> The only common thing amongst them is that they include ethnic origins and languages in the list of group identities against which fundamental rights and freedom of individuals will be protected. The provisions on the language use are left to the discretion of the governments. Only two regional instruments, the Framework Convention on the Protection of National Minorities, and the European Charter on Regional and Minority Languages, call for public authorities to provide public services in languages that are spoken by the majority in specific areas of the state. Nevertheless, Arzoz warns about equating language rights to human rights.<sup>35</sup> The author states that International human rights

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<sup>31</sup> de Varennes (n 8).

<sup>32</sup> H. M. Batibo, "Ten Commandments for Setswana to be a resourceful vehicle of development in Botswana", (2015) 25 *Marang: Journal of Language and Literature*, pp. 41-54.

<sup>33</sup> de Varennes (n 8); Nyathi-Ramahobo (n 11).

<sup>34</sup> Chebanne (n 5); Chebanne (n 28)

<sup>35</sup> Arzoz (n 20).

provide a basic regime of linguistic tolerance and protect against discrimination but does not grant specific language rights in terms of use and promotion by public authorities, which explains the poor status of language rights under international human rights instruments. It is also equally important, according to Reddi, not to confuse language rights with language status.<sup>36</sup> Indeed, the status of a language determines the legal position of the language itself but does not guarantee the linguistic rights of the language users. As such, people who speak a language or languages other than those with constitutional status, must rely on other constitutional guarantees for the right to use such a language when transacting with government.

## 5. CONSTITUTIONAL AND LEGAL GUARANTEES FOR LINGUISTIC RIGHTS IN BOTSWANA

The constitution of the Republic of Botswana does not contain any provisions that deal specifically with rights relating to language use and has opted not to adopt an official language or languages.<sup>37</sup> The constitution only alludes to the issue of English when detailing the language requirement to be eligible for elections to the National Assembly.<sup>38</sup> This can be interpreted as the designation of English as the “working language” of the National Assembly. It is also important to note that even though the parliament operates in both English and Setswana, the latter was never designated as the “working language” of the government as it is not mentioned anywhere in the constitution. Indeed, the adoption of Setswana as a working language of the National Assembly would have portrayed the dominance of the Setswana speaking group and relegated other linguistic minorities to a peripheral position. As such, the omission of Setswana from the constitution sends the symbolic message that all indigenous linguistic groups are regarded equally. However, it is well known that the use of language for the purposes of government is a major manifestation of the officialization of that language.<sup>39</sup>

Legally speaking, therefore, both users of English and Setswana find themselves in the same position as users of other languages: with no linguistic rights. Nevertheless, linguistic rights are not always constitutionally or legally entrenched, as is the case in Botswana, but are

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<sup>36</sup> M. Reddi, “Minority language rights in South Africa: A comparison with the provisions of international law”, (2002) 35 (3) *The Comparative and International Law Journal of Southern Africa*, pp. 328-350.

<sup>37</sup> Constitution of Botswana

<sup>38</sup> Constitution, s 61

<sup>39</sup> H. A. Strydom, International standards for the protection of minorities and the South African Constitution (2020), Retrieved on 10 October 2020, from <https://www.fwdeklerk.org/index.php/en/document-library/publications?download=83:international-standards-for-the-protection-of-minorities-and-the-south-african-constitution&start=25>.



guaranteed and enforced by social rules and practices. Therefore, English enjoys the status of being the working language of the state and Setswana, mother tongue of approximately 80 per cent of the population and second language of an additional 10 per cent, is *de facto* the national language.<sup>40</sup> The point here is that rights must be given or provided constitutionally, and not inferred from vague provisions in some legal articles.<sup>41</sup>

Reference to language in the constitution on Provisions to secure protection of the law states that “every person who is charged with a criminal offence shall be informed as soon as reasonably practicable, in a language that he or she understands and in detail, of the nature of the offence charged”, and “shall be permitted to have without payment the assistance of an interpreter if he or she cannot understand the language used at the trial of the charge”.<sup>42</sup> For Arzoz, such provisions should not be equated with linguistic rights.<sup>43</sup> The author acknowledges that the right to have free assistance of an interpreter in court is a well-established human right which applies to anyone facing a criminal charge. Notwithstanding, that right does not aim to afford tolerance, protection, or promotion for any language. The sole objective of the right is effective communication.<sup>44</sup> This provision, therefore, says very little about the use of languages by state authorities or the right to obtain government services through the medium of one's language. Indeed, language rights are rights that mandate the use of different languages by public authorities. They provide all the people, irrespective of the language they speak, the right to obtain government services through the medium their own languages.

## 6. LINGUISTIC RIGHTS IN MULTILINGUAL STATES

To rethink the state in more plural and inclusive ways, governments find themselves under international and national pressure to recognise the rights of speakers to use languages other than the official state language when soliciting public services. However, a thorny question remains unanswered: which rights should be applied to which language communities? Should rights be granted only within a specific region or area of the state, or should they be applied throughout the state? In other words, should linguistic rights be based on the territorial principle or the personality principle? On the one hand, the territorial principle states that, if speakers of

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<sup>40</sup> A. M. Chebanne, and L. Nyati-Ramahobo, Language use and language knowledge in Botswana. In *2001 Population and Housing Census. Central Statistics Seminar*, 8-12 September 2003 Gaborone: Government Printers. (2003), pp. 392-406.

<sup>41</sup> Boko (n 4)

<sup>42</sup> Constitution s10 (b) (f)

<sup>43</sup> Arzoz (n 20)

<sup>44</sup> *ibid* 545

a certain language are numerically superior within a specific geographical portion of the national territory, then certain linguistic rights will be granted to that linguistic group only within that specific area. On the other hand, the personality principle grants the same set of official language rights to all languages throughout the state.<sup>45</sup>

The difficulty that the Botswana languages situation presents is that the equality guaranteed by the constitution does not guarantee equality in language usage which should be seen in education, public media or other language use domains.<sup>46</sup> Thus, language right should be manifest in liberal language use dispensation where the least of any language should have an equitable right in communication, especially in appropriate community interactions.<sup>47</sup> In the arguments of Chebanne and Kewagamang, the perpetuation of the absence of other Botswana languages in education, for instance, has brought about tacit discrimination of those who speak languages that are not allowed access in public use domains.<sup>48</sup> This ethnic linguistic minorities' disregard by the law constitute linguistic imperialism by those languages that were held as official.<sup>49</sup>

Nonetheless, there is a beam of light at the end of the tunnel. Indeed, in 2022, the government approved the first phase of the Botswana Language Programme, which would introduce the use of thirteen mother tongues, including sign language, as a medium of instruction in early childhood learning from 2023.<sup>50</sup> Although this important development has been applauded by the international community, some worrying points that can directly or indirectly influence the failure or success of the programme are worth noting. We should note from the onset the distinction between language as a taught subject and language as a medium of instruction. On the one hand, when language is taught as a subject, then learners are taught to speak, read, and write in that language. On the other hand, when language is used as a medium of instruction, as per the government report, then other subjects such as mathematics, science and agriculture are taught in that language. This means that there should be

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<sup>45</sup> K. D. McRae, "The Principle of Territoriality and the Principle of Personality in Multilingual States", (1975) 4 *International Journal of the Sociology of Language*, pp. 33-54.

<sup>46</sup> A. M. Chebanne, A., and T. V. Moutakwa, "Issues of equality and equity in education: The fate of minority languages of Botswana", *Mosenodi: Journal of the Botswana Educational Research Association*, 20 (2) (2017), pp. 78-89.

<sup>47</sup> A. M. Chebanne, "The Internal Colonisation of the San Peoples of Botswana", (2020) 32 *Marang: Journal of Language and Literature*, pp. 16-38.

<sup>48</sup> A. M. Chebanne, & P. Kewagamang, "A Model for Introducing Marginalized Indigenous Languages in the Botswana Education System", (2020) 23 (1) *Mosenodi: Journal of the Botswana Educational Research Association*, pp. 4-23.

<sup>49</sup> Nyati-Ramahobo (n 11)

<sup>50</sup> CERD/C/BWA/17-22

mathematics, science and agricultural textbooks and exercise books available in that language. This is far from being the case.

From the above, it is evident that the government's intention was not to promote these mother tongues as languages of instruction but merely as subjects taught. However, even in the context of language as a taught subject, loopholes exist. Indeed, language general meta-linguistic material (grammars, dictionaries, descriptions) and/or teaching material (reading books, exercise books, audio-visual or audio-lingual material) are not available in all these languages. And where the materials are available, most of them were not produced for early childhood education. Furthermore, there are no teachers trained to teach these languages. The government intends to hire teachers' aides from the community, equating teaching a language to speaking the language. However, being able to speak, write and read a language does not qualify one as a teacher of that language. The government has also failed to create institutional support for these languages. Apart from the inclusion of these languages in education, no mention is made to legislate their use in the administration, public services, and the media. Without this support, this programme has low chances of succeeding. The government has therefore failed, from the start, to give substance to the current game of smoke and mirrors around the inclusion of minority groups.

In the dispensation of the National Cultural Council and the Botswana National Cultural Council: Strategic Plan 2005 – 2008 which purport to provide culture, in form of performing arts (dances and songs), for all ethnic linguistic group as a right, it could be argued that these aspects are partial manifestations of what a language right could be considered as they do not recognize language promotion as a right. Such rights come about when cultural expression occurs in a language that speakers use as a recognised right. Therefore, the cultural policies of Botswana as they exist do not have linguistic guarantees that could constitute rights of language use.<sup>51</sup> The position adopted by Chebanne and Moumakwa is that only policies that allow unrestricted use of language in education, cultural expression, and linguistic identity of an individual could justifiably be qualified as responding to the critical question of language right.<sup>52</sup> This could be seen when policies freely manage and promote multilingualism in the country as a national resource .<sup>53</sup>

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<sup>51</sup> *ibid.*

<sup>52</sup> Chebanne and Moumakwa (n 46)

<sup>53</sup> Batibo (n 5)

In Botswana, researchers have argued that the situation of many languages, and there are thirty, needs appropriate development and planning by law to equitably respond to ethnic and linguistic rights.<sup>54</sup> Jotia and Jankie argued that language rights were critical to upholding of democratic rights given that languages reflect the free choices of speakers.<sup>55</sup> Without these free democratic choices, those with languages that are not recognised or provided with free use in applicable social domains have a lot to lose in terms of the quality of life as constituted by the enjoyment of culture in their own terms, learning in their own language, and identifying themselves with all elements that free people use to live a life as human beings.<sup>56</sup>

In the discussions of Ruiz, social models of planning languages use can help determine whether a country views language as a problem or a resource. From this perspective, the Botswana model of the determination of the planning of language in official domains suggests that languages are a social problem, and therefore the minimalist approach to language use may be seen to reduce languages in public domains. Therefore, when languages are viewed as a problem and not a resource, state policies espouse an uncluttered model where fewer languages are adopted in official communication domains, and all the others are basically overlooked.<sup>57</sup> In this prototypical situation, states upholding this development approach hope that speakers of other languages would accept those languages that are officially put in use and through them exercise their citizenship right. However, as Ruiz viewed it, any state policy that accepts that other languages may be disregarded, effectively encourages the assimilation of the communities of the excluded languages.<sup>58</sup>

Nyati-Ramahobo qualified the state social model that allows assimilation as hegemonic.<sup>59</sup> This model denies promotion of other languages and further encourages the loss of these languages and the cultural identity of communities which speak these languages. In Botswana, the linguistic hegemony model approach has succeeded with regards to some communities, such as the Khoisan.<sup>60</sup> By and large, the practice of language use models in

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<sup>54</sup> Batibo (n 5) ; Chebanne (n 5).

<sup>55</sup> Jotia, A & D. Jankie (eds). *Multicultural Education Discourses: Breaking Barriers of Exclusion in selected African Contexts*. (Zebra Publishing based in Windhoek, Namibia.2015).

<sup>56</sup> Nyati-Ramahobo 2004 (n 1)

<sup>57</sup> B. Smeija, *Language Pluralism in Botswana - Hope or Hurdle? A sociolinguistic survey on language use and language attitudes in Botswana with special reference to the status and use of English*. (Frankfurt/Bern: Peter Lang 2003).

<sup>58</sup> R. Ruiz, "Orientations in language planning", (1984) 8 (2) *Journal of the National Association for Bilingual Education*, pp. 15-34.

<sup>59</sup> Nyati-Ramahobo 2000 (n 1)

<sup>60</sup> Chebanne 2015 (n 5)

Botswana, by design or by the logic of things, ultimately entrenches social and linguistic homogeneity, and Chebanne further qualified such a situation as internal colonialism.<sup>61</sup> However, when language is regarded as a right or resource for cultural and ethnic identity expression, the state language policies recognize all the languages within the country, inclusive of minorities.<sup>62</sup> This recognition can be applied in selected social domain such as early primary literacies and broadcast of cultural programmes in local languages in the state media.<sup>63</sup>

Linguists and sociologists have submitted that in the language as a resource approach, the country feels the obligation that all languages have rights and that they should be accorded rights of usage, and facilitated to develop themselves and to feature in important domains.<sup>64</sup> This language as a right model, therefore underscores the importance of community languages.<sup>65</sup> For Botswana and most of Africa, Batibo makes arguments by posing these questions:

With regards to the language policy, which formulation would be the most apposite? What are the modalities for the optimum use of languages? Should the question of minority languages be a concern? How should one manage the problems of ethnicity which are perpetuated by linguistic diversity? What language or languages should be used in education<sup>66</sup>

Batibo submits that in African countries, lack of planning for the use of African languages creates problems, and unfortunate arguments of tribalism are raised each time language issues are raised.<sup>67</sup> Consequently, Batibo decries the fiasco by African states to plan with multilingualism in their countries, but rather opt for four types of language use: 1) the colonial language, 2) nationally dominant languages, 3) provincially dominant languages, and 4) local languages.<sup>68</sup> Botswana, by its constitution and social policy on language use, is among

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<sup>61</sup> Chebanne 2020 (n 47)

<sup>62</sup> Batibo 2015 (n 12). See also Nyati-Ramahobo 2004 (n 1)

<sup>63</sup> Chebanne and Kewagamang 2020 (n 48)

<sup>64</sup> *ibid*

<sup>65</sup> B. Brock-Utne, "Research and policy on the language of instruction issue in Africa", (2010) 30 *International Journal of Educational Development*, pp. 636-645.

<sup>66</sup> H. M. Batibo, H. M. *Fighting a losing battle? Assessing the impact of mother-tongue education advocacy in a hostile environment*. Keynote address presented at the Plurilingual Education Conference, SOAS (19-20 February 2010), London 2

<sup>67</sup> Batibo 2015 (n 12)

<sup>68</sup> Batibo 2015 (n 5) 73

African states that elected not to have a language use policy that responds to ethnic languages, but rather opted for language use types 1 and 2 to operate.

Some theoretical frameworks can account for the current language policy and language situation in Botswana. One such theory of language use policy is by Fishman who highlights six types of language policy: maintaining status quo, exclusive use of selected languages, partially exclusive of languages, inclusive use of languages, hierarchical and isolating language use policies.<sup>69</sup> As the term entails, the inclusive language use policy considers all indigenous languages to be used in all domains—education, administration, media, etc.<sup>70</sup> The partially inclusive policy considers major indigenous languages for elevation to national level for use in administration, education, media, etc. The exclusive language use policy limits how many languages can be used and may take a dominant indigenous language and treat it as a national language to be used in all public communication domains (education, media, administration, etc.). The hierarchical language use policy presents languages for use from official, national, and regional/district, with allocated functions (education, administration, media, etc.) at these levels. Major languages have more (national) functions and the smaller languages recognised and given some functions (with smaller/localised public functions).<sup>71</sup> The isolation language use policy tried in Tanzania and Madagascar puts national languages above international or colonial languages.<sup>72</sup>

In his analysis, Batibo qualified the language situation of Botswana as exclusively English and Setswana.<sup>73</sup> These languages are used in education, administration, media, public address, etc. This model has a leaning to the colonial status quo language use policy in which English as colonial language continues to be adopted for use at official level whereas all the indigenous languages are neglected.<sup>74</sup> The policy equally takes Setswana as the dominant indigenous language and treat it as a national language to be used in all public communication domains (education, media, administration, etc.). Other indigenous languages are not considered. Higher functions such as the judiciary, higher education and national affairs are assigned to the English language.<sup>75</sup> This practice of language use explains why minority

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<sup>69</sup> J. A. Fishman, *Advances in language planning*. Berlin, Mouton de Gruyter 1974.

<sup>70</sup> Batibo 2015 (n 1) 73-74

<sup>71</sup> Batibo 2015 (n 5); Batibo 2015 (n 12); Brock-Utne 2010 (n 65)

<sup>72</sup> Batibo 2015 (n 1)

<sup>73</sup> *ibid* 73-74

<sup>74</sup> Nyati-Ramahobo 2000 (n 1). See also Nyati-Ramahobo 2004 (n 1)

<sup>75</sup> Batibo 2015 (n 1) 73-74

languages are marginalised and excluded from any social language domain in Botswana.<sup>76</sup> Jotia and Jankie criticised this practice as lacking in democratic practice on the specific issue of language as a right.<sup>77</sup> Language as a right is diametrically opposite to this exclusive language use policy dispensation of Botswana.<sup>78</sup>

The Ruiz theoretical arguments of language planning by reorienting language planning as a resource and confirmed in Botswana by Batibo and Nyati-Ramahobo is helpful in accounting and planning for the situation of languages in Botswana.<sup>79</sup> Without a conscious policy undertaking to correct the situation, Botswana will fail to uphold what is important to a human person, a language, through which he or she lives and freely identifies himself or herself as a fully liberated human being. It is also not an overstatement that, without linguistic rights, the beauty of the multiculturalism of Botswana, which is served through language, will be threatened with extinction as other ethnic communities become assimilated into a social entity that has lost its fundamental values of humanity. The recent pronouncements in Botswana in Vision 2016 and Vision 2036 give some hope that the country is becoming alert to some issues that qualify personal and collective rights, however, the only actualisation can come through constitutional provision.

## 7. CONCLUSION

The objective of the paper was to persistently feed the debate on language uses and practices in Botswana, publicly maintained as legal language rights whereas constitutionally they do not guarantee any rights. The very fact that these language rights are simply taken as givens without even the existence of a language policy makes the situation problematic. A country that wants to uphold democratic ideals should also ensure that all aspects of human rights are constitutionally declared as such and not implied in other rights that may not guarantee them. If Botswana must characterize herself nationally, her constituent parts, made of different ethnicities, languages, and social organizations, must be democratically accounted for in the equitable definition and provision of language rights. Botswana, with her current development strides and democratic acclaims, needs to modernize her constitution to individuate rights so that they become evident in the social development policies. With the new debates on

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<sup>76</sup> Chebanne, A. The lack of multilingual education in Botswana: Tragic consequences for the Khoisan languages. In P. Skold, M. Sandstrom, & M. Bolaane (Eds.), *Under the same sun.: Parallel issues and mutual challenges for San and Sami Peoples and research* (Umea.Vaartoe/Center for Sami Research (CeSam) 2015), pp. 133-146.

<sup>77</sup> Jotia and Jankie 2015 (n 55)

<sup>78</sup> *ibid*

<sup>79</sup> Ruiz 2010 (n 57). See also Nyati-Ramahobo 2004 (n 1) and Batibo 2015 (n 5)

Sustainable Development Goals (SDG)'s and the Visions 2036, Botswana is in an opportune situation to implement rights that take all languages and culture into account, and to ensure that they are promoted and capitated to be tools for the new call for knowledge economy debates. Quite evidently, the paper argued that the policy on language rights help democratise a country. The discussion has identified the salient issues which demonstrate that languages are a resource for development – education, heritage (tangible and intangible), knowledge economy, and the beauty of diversity (cultural and linguistic). Transiting to this dispensation will bring true equality and equity. The fear that such a liberal policy will increase tensions is not true as neighbouring countries are effectively developing without strife caused by the official status to different languages within their territories. Everything is contingent upon governance modalities, the manner, and the spirit with which the policies of multilingualism and multiculturalism are viewed and implemented. Therefore, the only way forward is for the country to eliminate the current linguistic minimalism and to espouse a system that will be more inclusive, equitable, humane, and humanistic in the architect of a national democratic model.